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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,786	03/10/2004	Robert A. Van Tassel	ENDOV-67986	5624
60117	7590	05/29/2008		
RATNER PRESTIA P.O. BOX 980 VALLEY FORGE, PA 19482			EXAMINER GIBSON, ROY DEAN	
			ART UNIT 3739	PAPER NUMBER
			MAIL DATE 05/29/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/798,786	<b>Applicant(s)</b> VAN TASSEL ET AL.	
	<b>Examiner</b> Roy D. Gibson	<b>Art Unit</b> 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 61-71 and 73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 67 is/are allowed.
- 6) ☒ Claim(s) 61-66, 68-71 and 73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### ***Response to Arguments***

Applicant's arguments filed 2/25/2008 have been fully considered but they are not persuasive. The method steps of the prior art are the same as those claimed, therefore, one can logically conclude that the human body would respond the same, i.e., inherently the blood vessel (including the adventitial area) would take up the psoralen agent and the adventitial area would be increased. Therefore, the rejections presented in the most recent Office action are repeated below and now include claims 70 and 71.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 61, 62, 64-66 and 68 are rejected under 35 U.S.C. 102(e) as being anticipated by Laufer et al. 96,488,673). Laufer et al. disclose a method of applying light energy to the inner wall of a vessel via a light delivery catheter without occluding fluid flow (Figure 37 and 38 and the light having a UV wavelength of 240-350 nm) after applying a photo-activatable agent (a psoralen agent injected intravenously) to the vessel and which is necessarily taken up by the wall and the adventitial area of the vessel (as disclosed by the applicant's specification) and see col. 9, lines 44-52, col. 11,

lines 8-38, col. 16, lines 30-53, col. 26, line 38-col. 27, line 27 and col. 27, line 67-col. 29, line 11).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 63, 69-71 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laufer et al. in view of Trauner et al. (5,913,884).

Laufer et al. fail to disclose local administration of the photo-activatable agent, However, Trauner et al. disclose that local and systemic administration are both effective or equivalent with a waiting period required when the administration is systemic (col. 7, lines 14-32).

As to claims 69-71 and 73, Laufer et al. fail to disclose irradiating the target region externally using an external light source. However, Trauner et al. disclose the light can be delivered via optical fibers internally or can be provided extracorporeally by transillumination (col. 7, lines 44-60). Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Laufer et al. as taught by Trauner et al., to provide the irradiation externally since this is an alternative equivalent means of applying the light energy to activate the photo-activatable agent.

***Allowable Subject Matter***

Claim 67 is allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy D. Gibson/  
Primary Examiner  
Art Unit 3739

May 27, 2008